

House Bill 685 (AS PASSED HOUSE AND SENATE)

By: Representatives Epps of the 128<sup>th</sup> and James of the 135<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To create the Manchester Public Utilities Authority and to provide for the appointment of members of the authority; to confer powers upon the authority; to authorize the issuance of revenue bonds of the authority payable from the revenues, tolls, fees, charges and earnings of the authority, contract payments to the authority and from other moneys pledged therefor and to authorize the collection and pledging of the revenues, tolls, fees, charges, earnings and contract payments of the authority for the payment of such revenue bonds; to authorize the execution of resolutions and trust indentures to secure the payment of the revenue bonds of the authority and to define the rights of the holders of such obligations; to make the revenue bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction of actions relating to any provisions of this Act; to provide for the validation of bonds; to provide for the separate enactment of each provision of this Act; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Short title.

This Act shall be known and may be cited as the "Manchester Public Utilities Authority Act."

**SECTION 2.**

Manchester Public Utilities Authority.

(a) There is hereby created a public body corporate and politic to be known as the "Manchester Public Utilities Authority," which shall be deemed to be a political subdivision of the state and a public corporation, and by that name, style and title said body may contract and be contracted with, sue and be sued, implead and be impleaded and complain and defend in all courts of law and equity. The authority shall have perpetual existence.

(b) The authority shall consist of five members who shall be appointed by the city council. Members of the city council may be appointed as members of the authority. With respect to the initial appointments, two members shall be appointed for a term of three years, two members shall be appointed for a term of two years, and one member shall be appointed for a term of one year. Thereafter, all appointments shall be made for terms of three years and until successors are appointed and qualified. Immediately after such appointments the members of the authority shall enter upon their duties. To be eligible for appointment as a member of the authority, a person shall be at least 21 years of age, shall reside in Talbot or Meriwether County and shall not have been convicted of a felony. Any member of the authority may be selected and appointed to succeed himself or herself.

(c) The city council may provide by resolution for compensation for the services of the members of the authority in such amounts as it may deem appropriate; provided, however, that such members shall be reimbursed for their actual expenses necessarily incurred in the performance of their duties.

(d) The members of the authority shall elect one of their number as chairperson and another as a vice chairperson. The members of the authority shall also elect a secretary, who need not be a member of the authority, and may also elect a treasurer, who need not be a member of the authority. The secretary may also serve as treasurer. If the secretary or treasurer are not members of the authority, such officer shall have no voting rights. Each of such officers shall serve for a period of one year and until their successors are duly elected and qualified.

(e) Three members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all of the rights and perform all of the duties of the authority.

### **SECTION 3.**

#### **Definitions.**

As used in this Act, the term:

(a) "Authority" means the Manchester Public Utilities Authority created by this Act.

(b) "City council" means the mayor and council of the City of Manchester.

(c) "Costs of the project" means and embraces the cost of construction; the cost of all lands, properties, rights, easements and franchises acquired; the cost of acquiring an existing public or private utility; the cost of all machinery and equipment; financing charges; interest prior to and during construction and for six months after completion of construction; the cost of engineering, architectural, fiscal agents, accounting, legal, plans and specifications, and other expenses necessary or incidental to determining the feasibility or practicability of the project; administrative expenses, and such other expenses as may

be necessary or incident to the financing herein authorized; working capital; and all other costs necessary to acquire, construct, add to, extend, improve, equip, operate and maintain the project.

(d) "Project" means any "undertaking" permitted by the 'Revenue Bond Law' and cable services.

(e) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the 'Revenue Bond Law' of the State of Georgia, as amended, or any other similar law hereinafter enacted.

(f) "Revenue bonds" means revenue bonds authorized to be issued pursuant in this Act.

(g) "Self liquidating" means any project which the revenues and earnings to be derived by the authority therefrom, including but not limited to any contractual payments with governmental or private entities, and all properties used, leased, and sold in connection therewith, together with any grants, will be sufficient to pay the costs of operating, maintaining and repairing the project and to pay the principal and interest on the revenue bonds or other obligations which may be issued for the purpose of paying the costs of the project.

(h) "State" means the State of Georgia.

#### **SECTION 4.**

##### **Powers.**

The authority shall have the power:

(a) To have a seal and alter the same at its pleasure;

(b) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate, maintain, lease, and dispose of real and personal property of every kind and character for its corporate purposes;

(c) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper, or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights or easements therein, or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue, and to lease or make contracts with respect to the use of or dispose of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned under this Act, except from the funds provided under the authority of this Act, and in any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action or proceedings as may be just to the authority and to the owners of the property to be condemned, and no

property shall be acquired under the provisions of this Act upon which any lien or encumbrance exists, unless at the time such property is so acquired a sufficient sum of money is to be deposited in trust to pay and redeem the fair value of such lien or encumbrance;

(d) To appoint, select and employ officers, agents and employees, including engineering architectural and construction experts, fiscal agents and attorneys, and fix their respective compensations;

(e) To execute contracts, leases, installment sale agreements and other agreements and instruments necessary or convenient in connection with the acquisition, construction, addition, extension, improvement, equipping, operation or maintenance of a project; and any and all persons, firms and corporations, municipalities and political subdivisions, including, but not limited to the City of Manchester, Meriwether County, and Talbot County, are hereby authorized to enter into contracts, leases, installment sale agreements and other agreements or instruments with the authority upon such terms and for such purposes as they deem advisable and as they are authorized by law;

(f) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease and dispose of projects;

(g) To pay the costs of the project with the proceeds of revenue bonds or other obligations issued by the authority or from any grant or contribution from the United States of America or any agency or instrumentality thereof or from the state or any agency or instrumentality or other municipality or political subdivision thereof or from any other source whatsoever;

(h) To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may require;

(i) To accept loans and grants of money or materials or property of any kind from the state or any agency or instrumentality or municipality or political subdivision thereof, upon such terms and conditions as the state or such agency or instrumentality or political subdivision may require;

(j) To borrow money for any of its corporate purposes and to issue revenue bonds, and to provide for the payment of the same and for the rights of the holders thereof;

(k) To exercise any power usually possessed by private corporations performing similar functions, including the power to incur short-term debt and to approve, execute, and deliver appropriate evidence of any such indebtedness; and

(l) To do all things necessary or convenient to carry out the powers expressly given in this Act.

**SECTION 5.**

Revenue bonds.

The authority shall have power and is hereby authorized to provide by resolution for the issuance of revenue bonds of the authority for the purpose of paying all or any part of the costs of the project and for the purpose of refunding revenue bonds or other obligations previously issued. The principal of and interest on such revenue bonds shall be payable solely from the special fund hereby provided for such payment. The revenue bonds of each issue shall be dated, shall bear interest at such rate or rates per annum, payable at such time or times, shall mature at such time or times not exceeding 40 years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution for the issuance of such revenue bonds.

**SECTION 6.**

Same; form; denomination; registration; place of payment.

The authority shall determine the form of the revenue bonds and shall fix the denomination or denominations of the revenue bonds. The revenue bonds may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for registration and exchangeability privileges. The authority shall fix the place or places of payment of principal and interest thereon.

**SECTION 7.**

Same; signatures; seal.

All such revenue bonds shall bear the manual or facsimile signature of the chairperson or vice chairperson of the authority and the attesting manual or facsimile signature of the secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the manual or facsimile signature of such persons as at the actual time of the execution of such revenue bonds shall be duly authorized or hold the proper office, although at the date of issuance of such revenue bonds such person may not have been so authorized or shall not have held such office. In case any officer whose signature shall appear on any revenue bond shall cease to be such officer before the delivery of such revenue bond, such signature shall

160 nevertheless be valid and sufficient for all purposes, the same as if that person had remained  
161 in office until such delivery.

162 **SECTION 8.**

163 Same; negotiability; exemption from taxation.

164 All revenue bonds shall have and are hereby declared to have all the qualities and incidents  
165 of negotiable instruments under the laws of the state. All revenue bonds, their transfer and  
166 the income therefrom shall be exempt from all taxation within the state.

167 **SECTION 9.**

168 Same; sale; price; proceeds.

169 The authority may sell revenue bonds in such manner and for such price as it may determine  
170 to be in the best interest of the authority. The proceeds derived from the sale of revenue  
171 bonds shall be used solely for the purpose or purposes provided in the resolutions and  
172 proceedings authorizing the issuance of such revenue bonds.

173 **SECTION 10.**

174 Same; interim receipts and certificates or temporary bonds.

175 Prior to the preparation of any definitive revenue bonds, the authority may, under like  
176 restrictions, issue interim receipts, interim certificates or temporary revenue bonds, with or  
177 without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

178 **SECTION 11.**

179 Same; replacement of lost or mutilated bonds.

180 The authority may provide for the replacement of any revenue bonds which shall become  
181 mutilated or be destroyed or lost.

182 **SECTION 12.**

183 Same; conditions precedent to issuance.

184 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the  
185 resolution, the authority shall determine that the project financed with the proceeds of the  
186 revenue bonds is self-liquidating. Revenue bonds may be issued without any other

proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this Act. Any resolution providing for the issuance of revenue bonds under the provisions of this Act shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the authority by a majority of its members at such meeting.

### **SECTION 13.**

Credit not pledged.

Revenue bonds shall not be deemed to constitute a debt of the City of Manchester nor a pledge of the faith and credit of said city. Such revenue bonds shall be payable solely from the fund hereinafter provided for. The issuance of such revenue bonds shall not directly, indirectly or contingently obligate said city to levy or to pledge any form of taxation whatsoever for payment of such revenue bonds or to make any appropriation for their payment, and all such revenue bonds shall contain recitals on their face covering substantially the foregoing provisions of this section. Notwithstanding the foregoing provisions, this Act shall not affect the ability of the authority and any political subdivision or municipality to enter into an intergovernmental contract pursuant to which the political subdivision or municipality agrees to pay amounts sufficient to pay operating charges and other costs of the authority or any project including, without limitation, the principal of and interest on revenue bonds in consideration for services or facilities of the authority.

### **SECTION 14.**

Trust indenture as security.

In the discretion of the authority, any issuance of revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Either the resolution providing for the issuance of the revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition and construction of the project, the maintenance, operation, repair and insuring of the project, and the custody, safeguarding and application of all monies.

**SECTION 15.**

To whom proceeds of bonds shall be paid.

In the resolution providing for the issuance of revenue bonds or in the trust indenture, the authority shall provide for the payment of the proceeds of the sale of the revenue bonds to any officer or person who, or any agency, bank, or trust company which, shall act as depository of such funds and shall hold and apply the same to the purposes thereof subject to such regulations as this Act and such resolution or trust indenture may provide.

**SECTION 16.**

Sinking fund.

The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls, charges, and earnings derived from any particular project or projects, regardless of whether or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular project for which revenue bonds have been issued, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the revenue bonds or in the trust indenture may provide, and such funds so pledged from whatever source received shall be set aside at regular intervals as may be provided in the resolution or trust indenture, into a sinking fund, which said sinking fund shall be pledged to and charged with the payment of the interest upon such revenue bonds as such interest shall fall due, the principal or purchase price of such revenue bonds as the same shall fall due, any premium upon such revenue bonds as the same shall fall due, the purchase of such revenue bonds in the open market, and the necessary charges of the paying agent for paying principal and interest. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be maintained as a trust account for the benefit of all revenue bonds without distinction or priority of one over another.

**SECTION 17.**

Remedies of bondholders.

Any holder of revenue bonds or any of the coupons appertaining thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,



250 either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce  
251 any and all rights under the laws of the state, including specifically but without limitation,  
252 the 'Revenue Bond Law,' or granted hereunder or under such resolution or trust indenture,  
253 and may enforce and compel performance of all duties required by this Act or by such  
254 resolution or trust indenture to be performed by the authority or any officer thereof, including  
255 the fixing, charging and collecting of revenues, fees, tolls, fines, and other charges for the use  
256 of the facilities and services furnished.

## 257 **SECTION 18.**

### 258 Validation.

259 Revenue bonds and the security therefor shall be confirmed and validated in accordance with  
260 the procedure of the 'Revenue Bond Law.' The petition for validation shall also make party  
261 defendant to such action the state, and any institution, department or other agency thereof,  
262 and any municipality, political subdivision or authority of the state which has contracted with  
263 the authority for services or facilities relating to the project for which revenue bonds are to  
264 be issued and sought to be validated, and such defendant shall be required to show cause, if  
265 any exists, why such contract or contracts shall not be adjudicated as a part of the basis for  
266 the security for the payment of any such revenue bonds. The revenue bonds when validated,  
267 and the judgment of validation shall be final and conclusive with respect to such revenue  
268 bonds and the security for the payment thereof and interest thereon and against the authority  
269 and all other defendants.

## 270 **SECTION 19.**

### 271 Venue and jurisdiction.

272 Any action to protect or enforce any rights under the provisions of this Act or any suit or  
273 action against such authority shall be brought in the Superior Court of Meriwether County,  
274 and any action pertaining to validation of any revenue bonds issued under the provisions of  
275 this Act shall likewise be brought in said court which shall have exclusive, original  
276 jurisdiction of such actions.

## 277 **SECTION 20.**

### 278 Interest of bondholders protected.

279 While any of the revenue bonds issued by the authority remain outstanding, the powers,  
280 duties or existence of said authority or its officers, employees, or agents, shall not be

281 diminished or impaired in any manner that will affect adversely the interests and rights of the  
282 holders of such revenue bonds, and no other entity, department, agency, or authority will be  
283 created which will compete with the authority to such an extent as to affect adversely the  
284 interest and rights of the holders of such revenue bonds, nor will the state itself so compete  
285 with the authority. The provisions of this Act shall be for the benefit of the authority and the  
286 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the  
287 provisions hereof, shall constitute a contract with the holders of such revenue bonds.

288 **SECTION 21.**

289 Monies received considered trust funds.

290 All monies received pursuant to the authority of this Act, whether as proceeds from the sale  
291 of revenue bonds, as grants or other contributions, or as revenue, income, fees and earnings,  
292 shall be deemed to be trust funds to be held and applied solely as provided in this Act.

293 **SECTION 22.**

294 Purpose of the authority.

295 Without limiting the generality of any provision of this Act, the general purpose of the  
296 authority is declared to be that of providing public utilities for the citizens in the City of  
297 Manchester and environs, including, but not limited to, Talbot County and Meriwether  
298 County.

299 **SECTION 23.**

300 Rates, charges and revenues; use.

301 The authority is hereby authorized to prescribe and fix rates and to revise same from time to  
302 time and to collect revenues, tolls, fees, and charges for the services, facilities, and  
303 commodities furnished, and in anticipation of the collection of the revenues, to issue revenue  
304 bonds or other types of obligations as herein provided to finance, in whole or in part, the  
305 costs of the project, and to pledge to the punctual payment of said revenue bonds or other  
306 obligations, all or any part of the revenues.

307 **SECTION 24.**

308 Rules, regulations, service policies,  
309 and procedures for operation of projects.

310 It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,  
311 service policies, and procedures for the operation of any project or projects constructed or  
312 acquired under the provisions of this Act. The authority may adopt bylaws.

313 **SECTION 25.**

314 Tort immunity.

315 To the extent permitted by law, the authority shall have the same immunity and exemption  
316 from liability for torts and negligence as the City of Manchester, and the officers, agents, and  
317 employees of the authority when in the performance of the work of the authority shall have  
318 the same immunity and exemption from liability for torts and negligence as the officers,  
319 agents, and employees of the City of Manchester when in the performance of their public  
320 duties or work of the city.

321 **SECTION 26.**

322 Provisional tax-exempt status of authority.

323 The properties of the authority, both real and personal, are declared to be public properties  
324 used for the benefit and welfare of the people of the state and not for purposes of private or  
325 corporate benefit and income, and such properties and the authority shall be exempt from all  
326 taxes and special assessments of any municipality, county, or the state and any political  
327 subdivision thereof only if otherwise provided by general law and only to the extent provided  
328 by general law.

329 **SECTION 27.**

330 Effect on other governments.

331 This Act shall not and does not in any way take from the City of Manchester or any political  
332 subdivision or municipality the authority to own, operate and maintain public facilities or to  
333 issue revenue bonds as provided by the 'Revenue Bond Law.'

334 **SECTION 28.**

335 Liberal construction of act.

336 This Act being for the welfare of various political subdivisions and municipalities of the state  
337 and its inhabitants, shall be liberally construed to effect the purposes hereof.

338 **SECTION 29.**

339 Severability; effect of partial invalidity of act.

340 The provisions of this Act are severable, and if any of its provisions shall be held  
341 unconstitutional by any court of competent jurisdiction, the decision of such court shall not  
342 affect or impair any of the remaining provisions.

343 **SECTION 30.**

344 Effective date.

345 This Act shall become effective upon its approval by the Governor or upon its becoming law  
346 without such approval.

347 **SECTION 31.**

348 Repealer.

349 All laws and parts of laws in conflict with this Act are hereby repealed.